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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,923	06/25/2003	Steven E. Tivey	52493.000252 1791	
21967 HUNTON & W	7590 08/26/200 TLLIAMS LLP	EXAMINER		
	AL PROPERTY DEPA	MCCORMICK, GABRIELLE A		
1900 K STREE SUITE 1200	1, N.W.	ART UNIT	PAPER NUMBER	
WASHINGTON	N, DC 20006-1109	3629		
			MAIL DATE	DELIVERY MODE
		08/26/2008	PAPER	

# Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Communication		Application	on No.	Applicant(s)				
		10/602,92	23	TIVEY ET AL.				
Office Action Summary				Art Unit				
		Gabrielle	McCormick	3629				
Period fo	The MAILING DATE of this communication a or Reply	ppears on the	e cover sheet with the c	orrespondence ad	ddress			
WHIC - Exter after - If NC - Failu Any	ORTENED STATUTORY PERIOD FOR REF CHEVER IS LONGER, FROM THE MAILING asions of time may be available under the provisions of 37 CFR SIX (6) MONTHS from the mailing date of this communication. To period for reply is specified above, the maximum statutory perior to reply within the set or extended period for reply will, by state reply received by the Office later than three months after the material part of the provided patent term adjustment. See 37 CFR 1.704(b).	DATE OF TH 1.136(a). In no evo od will apply and w ute, cause the app	HIS COMMUNICATION ent, however, may a reply be tin III expire SIX (6) MONTHS from lication to become ABANDONE	N. nely filed the mailing date of this of (35 U.S.C. § 133).	•			
Status								
1)	Responsive to communication(s) filed on <u>09</u>	luna 2008						
-			on-final					
3)	<i>;</i> —							
٥,١	closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.							
Dispositi	on of Claims							
- 4)⊠	Claim(s) <u>1-7,9-27 and 29</u> is/are pending in the	ne application	1					
•	4a) Of the above claim(s) is/are withdrawn from consideration.							
	Claim(s) is/are allowed.							
·								
· ·	☑ Claim(s) <u>1-7,9-27 and 29</u> is/are rejected. ☑ Claim(s) <u>12</u> is/are objected to.							
·—	Claim(s) are subject to restriction and	l/or election r	equirement.					
	on Papers							
	-							
•	The specification is objected to by the Exami							
10)	The drawing(s) filed on is/are: a) ☐ a		-					
	Applicant may not request that any objection to the							
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).								
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.								
Priority ι	ınder 35 U.S.C. § 119							
<ul> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>								
2) Notice (3) Inform	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO/SB/08) r No(s)/Mail Date		4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:	nte				

#### **DETAILED ACTION**

#### Status of Claims

- 1. This action is in reply to the Amendment filed on June 9, 2008.
- 2. Claims 1-6, 12-13, 26-27 and 29 have been amended.
- 3. Claims 8, 28, 30 and 31 have been canceled.
- **4.** Claims 1-7, 9-27 and 29 are currently pending and have been examined.

## Claim Objections

**5.** Claim 12 is amended to read: "wherein the agent score...is based on ...position rank, of the particular agent." The comma appears to be extraneous.

### Previous Claim Rejections - 35 USC § 112

- Claims 1-6, 26-27 and 29 have been amended to provide outcomes to the step of determining "if" or "whether" a lead is auto-assignable. Claims 8, 28 and 30 are cancelled. The previous rejection is withdrawn.
- 7. Claims 12 and 13 have been amended to overcome the previous rejections; the rejections are withdrawn.

## **Provisional Double Patenting**

8. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application

claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

- 9. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.
- 10. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer.A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).
- 11. Claims 1-7; 9-27 and 29 1-11 and 13-26 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 and 13-26 of Application No. 10/602707.
- 12. This is a <u>provisional</u> obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.
- 13. Office Action dated October 12, 2007 required a terminal disclaimer. In Applicant's response (January 31, 2008), Applicant acknowledged the rejection. The Examiner followed up with a telephone call on July 10, 2008 wherein Applicant's representative stated that a terminal disclaimer would be forthcoming.

#### Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from

the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date

of this final action and the advisory action is not mailed until after the end of the THREE-MONTH

shortened statutory period, then the shortened statutory period will expire on the date the advisory action

is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX

MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should

be directed to Gabrielle McCormick whose telephone number is (571)270-1828. The examiner can

normally be reached on Monday - Thursday (5:30 - 4:00 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John

Weiss can be reached on 571-272-6812. The fax phone number for the organization where this

application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application

Information Retrieval (PAIR) system. Status information for published applications may be obtained from

either Private PAIR or Public PAIR. Status information for unpublished applications is available through

Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC)

at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative

or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-

1000.

/G. M./

Examiner, Art Unit 3629

/John G. Weiss/

Supervisory Patent Examiner, Art Unit 3629